

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
(DIVISION BENCH)

CORAM : Hon'ble Shri S.R. Nayak, CJ
 Hon'ble Shri Satish K. Agnihotri, J.

Writ Petition No. 2318 OF 2004

PETITIONER

Roop Ram Patel, Aged about 44 years, S/o Ramlal Patel, Occu. - Unemployed, R/o - Near Bus Stand, Village & Post - Kopra, Tehsil - Rajim, District - Raipur (C.G.)

Versus

RESPONDENTS

1. State of Chhattisgarh,
Through : Secretary, Department of School Education, D.K.S. Building, Raipur (C.G.)
2. The Director,
Directorate of Public Instructions,
District : Raipur (C.G.)
3. Joint Director of Education
Raipur Division, Tehsil and District - Raipur (C.G.)

Present:

Mr. A.N. Bhakta, learned counsel for the petitioner.

Mr. Sumesh Bajaj, learned Dy. G.A., for the respondents.

ORAL ORDER

(Passed on 30th of November 2005)

The following Order of the Court was passed by
S.R. Nayak, CJ:

The unsuccessful applicant before the State Administrative Tribunal being aggrieved by the order passed by the Tribunal has

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preferred this writ petition under Articles 226 and 227 of the Constitution of India.

(2) The facts are simple and straightforward. Admittedly, the petitioner worked as ad hoc Assistant Teacher in primary School for a total period of only four months during the academic year 1983-84. On that basis, he filed an application in the year 2004 before the Tribunal seeking for regularization of his service. The Tribunal has rejected the application.

(3) We have heard Mr. A.N. Bhakta, learned counsel for the petitioner and Mr. Sumesh Bajaj, learned Dy. Govt. Advocate, for the State/respondents.

(4) Placing reliance on the Circular issued by the School Education Department dated 28/08/1997, it was contended by Mr. Bhakta that by virtue of the above Circular his client is entitled to regularization of the services. Although, the said Circular was not appended to the writ petition, at the time of hearing Mr. Bhakta made available to us a copy of the same. We have carefully perused the same. In the said Circular issued by the School Education Department, it is directed that wherever the teachers have succeeded in getting relief before the Tribunal, the orders of the Tribunal should be given effect to and they should be appointed. We are at a loss to understand how that directive would in any way help the petitioner in sustaining his claim. Learned counsel for the petitioner was not in a position to place before us any other policy of the State Government on the basis of which he could possibly seek

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regularisation of his services. Be that as it may, the claim of the petitioner is required to be dismissed in limine if not for any reason on the ground of delay and laches. The petitioner after long lapse of twenty years and more had approached the Tribunal for relief without showing any cause whatsoever for inordinate delay. Be that as it may, it is well settled by the judgment of the Supreme Court in the cases of **Ashwani Kumar Vs. State of Bihar** (AIR 1997 SC 1628), **A. Umarani Vs. Registrar, Co-operative Societies and others** {(2004) 7 SCC 112} and **Madhyamik Shiksha Parishad, U.P. Vs. Anil Kumar Mishra and others** {(2005) 5 SCC 122) that the relief of regularisation cannot be granted unless it is shown that the applicant for the relief was appointed on ad hoc or temporary basis against a clear vacancy in a sanctioned post and such appointment was made in conformity against the rules and regulations governing recruitment. The Supreme Court further held that even in such cases it is not the right of the applicant to seek mandamus as a matter of right or course. Even in such cases the State employer can refuse to regularize the services. If a person who worked on ad hoc basis only for four months is directed to be continued in service and his service, we are afraid that we are violating the mandate of Article 14 read with Article 16(1) of the Constitution of India. The claim of the petitioner is totally devoid of merit. The writ petition is accordingly dismissed, however, with no costs.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge

Brajesh